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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/084,483	02/28/2002	Curt Wiedenhofer	TPP 31439	6711

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Stevens, Davis, Miller & Mosher, L.L.P.
1615 L Street, N.W., Suite 850
Washington, DC 20036

EXAMINER

KIM, AHSHIK

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 06/12/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application N .

10/084,483

Examiner

Ahshik Kim

Applicant(s)

WIEDENHOEFER, CURT

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07/18/02 (Preliminary Amendment) .
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6, 10-18 and 20-25 is/are rejected.
- 7) ☒ Claim(s) 7-9 and 19 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 07/18/02 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____ .
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 5 .
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____ .
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____ .

DETAILED ACTION

Preliminary Amendment

1. Receipt is acknowledged of the preliminary amendment filed on July 18, 2002. Claims
5 1-25 remain for examination.

Drawings

2. Receipt is acknowledged of the drawings filed on July 18, 2002. This application has
been filed with some informal drawings (Figures 1a and 2), which are acceptable for
10 examination purposes only. Formal drawings will be required when the application is allowed.

Claim Objections

3. Claims 7, 10, and 18 are objected to because of the following informalities:
Re claim 7, line 3, substitute "CT/MRI Scan" with --CT/MRI scan--.
15 Re claim 10, line 3, delete underline for the word "of".
Re claim 18, line 2, substitute "tissue product ," with --tissue product,--
Appropriate correction is required.

Claim Rejections - 35 USC § 102

- 20 The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the
basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

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(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

4. Claims 1-5, 10-19, and 21-25 are rejected under 35 U.S.C. 102(e) as being anticipated by Linberg (US 6,385,593).

Re claims 1, 18, and 24, Linberg teaches a system and the method for inventorying medical implants (see abstract; col. 6, lines 11+; col. 6, lines 61+) comprising a web-top interface 20 utilizing a wireless communication network (col. 7, lines 41, col. 9, lines 66+). The infrastructure allows bi-directional (uplink and downlink) communication between the mobile unit and web-base expert data center 62, which is a synchronization of data. The interface 20 is equipped with a display screen for user-friendly GUI application (col. 12, lines 61+) and modem for wireless communication (col. 10, lines 46+).

Re claims 2, 3, 10, 11, 14-16, 21, and 25, as shown in figure 9, the implantable medical component can be ordered for replacement to the manufacturer (col. 17, line 51 – col. 18, line 4). As further shown in figures 6 and 7 (col. 14, lines 59+), the operator of mobile unit can access to invoice control module 264, invoice preparation module 262 and accounting module 266 (col. 17, lines 6+). Although not explicitly suggested, a conventional inventory system and accounting system provides reconciling function to charge and receive correct amount from the related parties.

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Re claim 4, although a detailed description of expert data base is not provided, multiple devices can be implanted in a patient (col. 2, lines 15+) suggesting a plurality of suppliers/providers providing various implantable devices.

Re claim 5, when a plurality of mobile units are in operation, it is inherent the each device utilized a particular frequency/modulation to avoid cross-talk or interference from other devices. Each devices download/upload information independent of the other devices (col. 8, lines 30+).

Re claim 12, above-described order transmittal process (col. 17, line 51 – col. 18, line 4) can be performed in individual medical facilities or at a central office depending upon the ordering/purchasing procedures of the medical facilities.

Re claims 13, 17, 22, and 23, as shown in figure 5, the implantable medical component is loaded with information such as manufacturer, serial number, model number, etc. etc. The information can be stored into barcode 234 or a memory component 232 (col. 14, lines 1+). Since invoice is generated from the information retrieved from the barcode or the chip, such information can be forwarded to inventory control module for ordering products.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claims 6 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Linberg (US 6,385,593) in view of Joao (US 6,283,761). The teachings of Linberg have been discussed above. Linberg further discloses communicating with remote patients in video mode (col. 4, lines 16+; col. 6, lines 51+).

5 Linberg fails to specifically teach or fairly suggest that the electronic hand-held device comprises a camera for transmitting video signals to the database.

Joao teaches a system and the method for remotely exchanging healthcare information between a patient and a healthcare provider (see abstract) comprising a wireless communication network (col. 15, lines 6+) and a user interface device/computer (col. 14, lines 49+). All
10 computers in the network including the patient communication device 40 further comprises a video input/out device (col. 16, lines 4+; col. 22, lines 22+). The information database contains various resources including audio/video data (col. 16, lines 66+) as recited in claim 7.

In view of Joao's teaching, it would have been obvious to an ordinary skill in the art at the time the invention was made to further employ well-known video communication function to
15 the teachings of Lindberg in order to provide visual communication between the portable unit and the host machine/network. Hand-held terminal utilizing visual I/O and communication is well-known in the art, and gaining a rapid acceptance wherein visual display of information is critically important. Although Lindberg provides displaying capacity in traditional monitor (see figure 1), the users often are in a mobile environment (observing the patients with devices
20 implanted), and in need of transmitting graphical information. Accordingly, such modification would have been an obvious extension as taught by Joao for sending and receiving graphical data from the portable device, and therefore an obvious expedient.

Allowable Subject Matter

6. Claims 7-9 and 19 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter: the claims are directed at a tissue and implant product inventory system. It is the Examiner's view that the cited reference to Linberg (US 6,385,593) discloses inventory system for implantable devices. The reference to Joao (US 6,283,761) and to Nelson et al. (US 6,418, 346) teach on wireless information transmission over the network in medical or healthcare embodiment. However, the cited references, taken alone or in combinations, fail to suggest or teach a device and the method wherein the device receives x-ray image containing a measurement marker on the x-ray and a CT/MRI scan with a reference scale on the mobile hand-held device as set forth in the claims.

Conclusion

I. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: Powell (US 6,424,332); Hankins (US 6,375,077); Cusack et al. (US 6,493,724); Neslon et al. (US 6,418,346); McGrady (US 6,470,234); Jones et al. (US 6,117,073); Suzuki et al. (US 5,986,568) disclose implants or tissue management system and information processing system in healthcare environment.

II. Any inquiry concerning this communication or earlier communications from the examiner should be directed to *Ahshik Kim* whose telephone number is (703)305-5203 . The

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examiner can normally be reached between the hours of 6:00AM to 3:00PM Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee, can be reached on (703) 305-3503. The fax number directly to the Examiner is (703) 746-4782. The fax phone number for this Group is (703)308-7722, (703)308-7724, or (703)308-7382.

Communications via Internet e-mail regarding this application, other than those under 35 U.S.C. 132 or which otherwise require a signature, may be used by the applicant and should be addressed to [ahshik.kim@uspto.gov].

All Internet e-mail communications will be made of record in the application file. PTO employees do not engage in Internet communications where there exists a possibility that sensitive information could be identified or exchanged unless the record includes a properly signed express waiver of the confidentiality requirements of 35 U.S.C. 122. This is more clearly set forth in the Interim Internet Usage Policy published in the Official Gazette of the Patent and Trademark on February 25, 1997 at 1195 OG 89.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.



Ahshik Kim
Patent Examiner
Art Unit 2876
June 6, 2003



MICHAEL G. LEE
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